

.....
(Original Signature of Member)

108TH CONGRESS
2D SESSION

H. R. _____

To provide the nonimmigrant spouses and children of nonimmigrant aliens who perished in the September 11 terrorist attacks an opportunity to adjust their status to that of an alien lawfully admitted for permanent residence, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. MALONEY introduced the following bill; which was referred to the Committee on _____

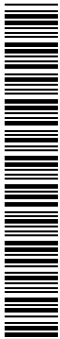
A BILL

To provide the nonimmigrant spouses and children of non-immigrant aliens who perished in the September 11 terrorist attacks an opportunity to adjust their status to that of an alien lawfully admitted for permanent residence, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “September 11 Family
5 Humanitarian Relief and Patriotism Act”.



1 **SEC. 2. ADJUSTMENT OF STATUS FOR CERTAIN NON-**
2 **IMMIGRANT VICTIMS OF TERRORISM.**

3 (a) ADJUSTMENT OF STATUS.—

4 (1) IN GENERAL.—The status of any alien de-
5 scribed in subsection (b) shall be adjusted by the
6 Secretary of Homeland Security to that of an alien
7 lawfully admitted for permanent residence, if the
8 alien—

9 (A) applies for such adjustment not later
10 than 2 years after the date on which the Sec-
11 retary promulgates final regulations to imple-
12 ment this section; and

13 (B) is otherwise admissible to the United
14 States for permanent residence, except in deter-
15 mining such admissibility the grounds for inad-
16 missibility specified in paragraphs (4), (5),
17 (6)(A), (7)(A), and (9)(B) of section 212(a) of
18 the Immigration and Nationality Act (8 U.S.C.
19 1182(a)) shall not apply.

20 (2) RULES IN APPLYING CERTAIN PROVI-
21 SIONS.—In the case of an alien described in sub-
22 section (b) who is applying for adjustment of status
23 under this section—

24 (A) the provisions of section 241(a)(5) of
25 the Immigration and Nationality Act shall not
26 apply; and



1 (B) the Secretary of Homeland Security
2 may grant the alien a waiver on the grounds of
3 inadmissibility under subparagraphs (A) and
4 (C) of section 212(a)(9) of such Act.

5 In granting waivers under subparagraph (B), the
6 Secretary shall use standards used in granting con-
7 sent under subparagraphs (A)(iii) and (C)(ii) of
8 such section 212(a)(9).

9 (3) RELATIONSHIP OF APPLICATION TO CER-
10 TAIN ORDERS.—An alien present in the United
11 States who has been ordered excluded, deported, re-
12 moved, or ordered to depart voluntarily from the
13 United States under any provision of the Immigra-
14 tion and Nationality Act (8 U.S.C. 1101 et seq.)
15 may, notwithstanding such order, apply for adjust-
16 ment of status under paragraph (1). Such an alien
17 may not be required, as a condition of submitting or
18 granting such application, to file a separate motion
19 to reopen, reconsider, or vacate such order. If the
20 Secretary of Homeland Security grants the applica-
21 tion, the Secretary shall cancel the order. If the Sec-
22 retary renders a final administrative decision to deny
23 the application, the order shall be effective and en-
24 forceable to the same extent as if the application
25 had not been made.



1 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
2 TUS.—The benefits provided by subsection (a) shall apply
3 to any alien who—

4 (1) was lawfully present in the United States as
5 a nonimmigrant alien described in section
6 101(a)(15) of the Immigration and Nationality Act
7 (8 U.S.C. 1101(a)(15)) on September 10, 2001;

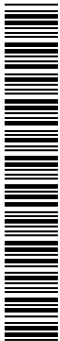
8 (2) was, on such date, the spouse, child, de-
9 pendent son, or dependent daughter of an alien
10 who—

11 (A) was lawfully present in the United
12 States as a nonimmigrant alien described in
13 section 101(a)(15) of the Immigration and Na-
14 tionality Act (8 U.S.C. 1101(a)(15)) on such
15 date; and

16 (B) died as a direct result of a specified
17 terrorist activity; and

18 (3) either—

19 (A) has been physically present in the
20 United States for a continuous period, begin-
21 ning not later than September 10, 2001, and
22 ending not earlier than the date the application
23 for adjustment under subsection (a) is filed, ex-
24 cept an alien shall not be considered to have
25 failed to maintain continuous physical presence



1 by reason of an absence, or absences, from the
2 United States for any periods in the aggregate
3 not exceeding 180 days; or

4 (B) was deemed to be a beneficiary of, and
5 by, the September 11th Victim Compensation
6 Fund of 2001 (42 U.S.C. 40101).

7 (c) STAY OF REMOVAL; WORK AUTHORIZATION.—

8 (1) IN GENERAL.—The Secretary of Homeland
9 Security shall provide by regulation for an alien sub-
10 ject to a final order of removal to seek a stay of
11 such order based on the filing of an application
12 under subsection (a).

13 (2) DURING CERTAIN PROCEEDINGS.—Notwith-
14 standing any provision of the Immigration and Na-
15 tionality Act (8 U.S.C. 1101 et seq.), the Secretary
16 of Homeland Security shall not order any alien to be
17 removed from the United States, if the alien is in re-
18 moval proceedings under any provision of such Act
19 and has applied for adjustment of status under sub-
20 section (a), except where the Secretary has rendered
21 a final administrative determination to deny the ap-
22 plication.

23 (3) WORK AUTHORIZATION.—The Secretary of
24 Homeland Security shall authorize an alien who has
25 applied for adjustment of status under subsection



1 (a) to engage in employment in the United States
2 during the pendency of such application.

3 (d) AVAILABILITY OF ADMINISTRATIVE REVIEW.—

4 The Secretary of Homeland Security shall provide to ap-
5 plicants for adjustment of status under subsection (a) the
6 same right to, and procedures for, administrative review
7 as are provided to—

8 (1) applicants for adjustment of status under
9 section 245 of the Immigration and Nationality Act;
10 or

11 (2) aliens subject to removal proceedings under
12 section 240 of such Act.

13 **SEC. 3. CANCELLATION OF REMOVAL FOR CERTAIN IMMI-**
14 **GRANT VICTIMS OF TERRORISM.**

15 (a) IN GENERAL.—Subject to the provisions of the
16 Immigration and Nationality Act (8 U.S.C. 1101 et seq.),
17 other than subsections (b)(1), (d)(1), and (e) of section
18 240A of such Act (8 U.S.C. 1229b), the Secretary of
19 Homeland Security shall, under such section 240A, cancel
20 the removal of, and adjust to the status of an alien law-
21 fully admitted for permanent residence, an alien described
22 in subsection (b), if the alien applies for such relief.

23 (b) ALIENS ELIGIBLE FOR CANCELLATION OF RE-
24 MOVAL.—The benefits provided by subsection (a) shall
25 apply to any alien who—



1 (1) was, on September 10, 2001, the spouse,
2 child, dependent son, or dependent daughter of an
3 alien who died as a direct result of a specified ter-
4 rorist activity; and

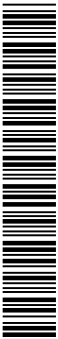
5 (2) either—

6 (A) was physically present in the United
7 States for a continuous period of not less than
8 6 months ending September 11, 2001, except
9 an alien shall not be considered to have failed
10 to maintain continuous physical presence by
11 reason of an absence, or absences, from the
12 United States for any periods in the aggregate
13 not exceeding 45 days, has been a person of
14 good moral character during such period, and
15 establishes that removal would result in extreme
16 hardship, which hardship shall be presumed by
17 the death referred to in paragraph (1); or

18 (B) was deemed to be a beneficiary of, and
19 by, the September 11th Victim Compensation
20 Fund of 2001 (49 U.S.C. 40101).

21 (c) STAY OF REMOVAL; WORK AUTHORIZATION.—

22 (1) IN GENERAL.—The Secretary of Homeland
23 Security shall provide by regulation for an alien sub-
24 ject to a final order of removal to seek a stay of



1 such order based on the filing of an application
2 under subsection (a).

3 (2) WORK AUTHORIZATION.—The Secretary of
4 Homeland Security shall authorize an alien who has
5 applied for cancellation of removal under subsection
6 (a) to engage in employment in the United States
7 during the pendency of such application.

8 (d) MOTIONS TO REOPEN REMOVAL PRO-
9 CEEDINGS.—Notwithstanding any limitation imposed by
10 law on motions to reopen removal proceedings (except lim-
11 itations premised on an alien’s conviction of an aggravated
12 felony (as defined in section 101(a)(43) of the Immigra-
13 tion and Nationality Act (8 U.S.C. 1101(a)(43))), any
14 alien who has become eligible for cancellation of removal
15 as a result of the enactment of this section may file one
16 motion to reopen removal proceedings to apply for such
17 relief. The Secretary of Homeland Security shall designate
18 a specific time period in which all such motions to reopen
19 are required to be filed. The period shall begin not later
20 than 60 days after the date of the enactment of this Act
21 and shall extend for a period not to exceed 240 days.

22 **SEC. 4. EXCEPTIONS.**

23 Notwithstanding any other provision of this Act, an
24 alien may not be provided relief under this Act if the alien
25 is—



1 (1) inadmissible under paragraph (2) or (3) of
2 section 212(a) of the Immigration and Nationality
3 Act (8 U.S.C. 1182(a)), or deportable under para-
4 graph (2) or (4) of section 237(a) of such Act (8
5 U.S.C. 1227(a)), including any individual culpable
6 for a specified terrorist activity; or

7 (2) a member of the family of an alien de-
8 scribed in paragraph (1).

9 **SEC. 5. EVIDENCE OF DEATH.**

10 For purposes of this Act, the Secretary of Homeland
11 Security shall use the standards established under section
12 426 of the Uniting and Strengthening America by Pro-
13 viding Appropriate Tools Required to Intercept and Ob-
14 struct Terrorism (USA PATRIOT ACT) Act of 2001 in
15 determining whether death occurred as a direct result of
16 a specified terrorist activity.

17 **SEC. 6. DEFINITIONS.**

18 (a) APPLICATION OF IMMIGRATION AND NATION-
19 ALITY ACT PROVISIONS.—Except as otherwise specifically
20 provided in this Act, the definitions used in the Immigra-
21 tion and Nationality Act (8 U.S.C. 1101 et seq.) (exclud-
22 ing the definitions applicable exclusively to title III of such
23 Act) shall apply in the administration of this Act.

24 (b) SPECIFIED TERRORIST ACTIVITY.—For purposes
25 of this Act, the term “specified terrorist activity” means



- 1 any terrorist activity conducted against the Government
- 2 or the people of the United States on September 11, 2001.

